

**IN THE CIRCUIT COURT FOR THE 22ND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS**

**STANDING ORDER
FOR CASES ASSIGNED TO
HON. MICHAEL J. CHMIEL
(Courtroom 202)**

PROFESSIONALISM AND CIVILITY

Parties and the attorneys who represent them are reminded to engage in professionalism and civility in the handling of cases which come before the Court. To the extent possible, attorneys should confer with each other on pending matters *before* coming to the courthouse. Each time a case is called in open court, the Court will endeavor to engage in a meaningful court appearance for the parties, with a desire to move matters along efficiently and effectively.

With the Pandemic of 2020, the need for professionalism and civility is even greater, as those who visit Courtroom 202 are asked to arrive just before the scheduled call of their case(s), maintain six feet of separation from those with whom they do not reside, wait at a designated spot until their case is called then participate from a designated spot, limit interaction to that which is essential, refrain from touching surfaces to the extent possible, and exit after the handling of their case(s) is complete.

REMOTE COURT APPEARANCES

Since 2014, those scheduled to appear in Courtroom 202 have been able to do so through CourtCall, which is an independent facilitator of remote court appearances. A remote court appearance through audio alone is sufficient for most court appearances, but video is typically required for the Court to receive testimony, which typically only occurs with specially set matters. Participation through CourtCall should be scheduled as soon as possible and at least one court day prior to the scheduled date and time, through courtcall.com or (888) 882-6878.

SCHEDULING

Since 2012, routine matters in arbitration ("AR cases") have been scheduled at 9:00 a.m. on Monday through Friday when the Court is available, while routine matters in probate ("PR cases") have been scheduled at 9:30 a.m., and all other matters (i.e., chancery matters - "CH cases," law matters - "LA cases," etc.) have been scheduled at 9:15 a.m., with hearings and trials specially set thereafter. *Under the Reconstitution Plan of the Circuit for the Pandemic of 2020*, scheduling has been altered to provide for the following:

8:45 a.m.	Up to 35 AR cases may be set.
9:45 a.m.	Up to 15 cases <i>other than AR cases</i> may be set.
10:45 a.m.	Reserved for special settings by the Court into the afternoon.

The initial presentation of a matter may be set at 8:45 or 9:45 a.m., as noted above. Questions on settings and availability may be directed to the Clerk of the Circuit Court by telephone at (815) 334-4310.

EMERGENCY MATTERS

As always, the Court will continue to handle emergency matters as circumstances warrant. To have a matter heard on an emergency basis – that is, outside normal setting protocol referenced above - *while the courthouse is open*, the pleading to be presented should be filed, then Court Administration should be called at (815) 334-4385 to explain the situation and to provide the telephone number and email address of each attorney or self-represented litigant (party) in the case, to the extent available. The appropriate Judge will be advised of the situation, and will then determine if the matter can be heard on an emergency basis, and when and where the matter will be heard. *When the courthouse is not open*, a Duty Judge can be contacted through the Office of the McHenry County Sheriff at (815) 338-2144.

INITIAL PRESENTATIONS / NO PAPER TAKEN IN THE COURTROOM / ORDERS

To the extent possible, pleadings and other matters to be filed with the Clerk of the Circuit Court with regard to a case, should be filed at least seven (7) days prior to the presentation of any such item in open court, so as to afford the Court sufficient opportunity to review the same.

*Under the Reconstitution Plan of the Circuit for the Pandemic of 2020, **no paper will be taken** by the Court or Clerk in the courtroom.*

Following a proceeding in Courtroom 202, *and at the direction of the Court*, a proposed order may be submitted to the Court through email to proposedorders@22ndcircuit.illinoiscourts.gov within twenty-four (24) hours.

At least two (2) court days (forty-eight (48) hours) prior to a setting in open court, and earlier if possible, and also when a matter is not otherwise set, all parties in a case may stipulate or otherwise agree to the entry of an Order in a case. Proposed orders for the same may be emailed to proposedorders@22ndcircuit.illinoiscourts.gov. The nature of the stipulation or agreement should be clear from that which is emailed or ideally through the e-filing of an appropriate motion, petition, or stipulation in advance of any such emailing. Emails should not include any substance or copies of any items which have been or should otherwise be filed, and should be sent by an attorney or a self-represented litigant (party), with a simultaneous copy to all other parties (or their attorneys, if any). Proposed orders must be signed by all parties (or their attorneys) in the case, or by an attorney with a representation that presentation of the proposed order involves an agreement of the parties. The Court reserves the right to enter (or not) and/or modify any such proposed order. Proposed orders will be filed and otherwise made available when they have been processed.

With the Pandemic of 2020, while all matters set for presentation or hearing in open court on and after March 18, 2020, have been continued to certain points in time posted on the website of the Clerk of the Circuit Court – www.caseinfo.mchenrycountyil.gov, all parties in a case may stipulate to or otherwise agree on a new date which arises in or after June of 2020. Proposed orders may be emailed to proposedorders@22ndcircuit.illinoiscourts.gov. Proposed orders must be signed by all parties (or their attorneys) in the case, or by an attorney with a representation that presentation of the proposed order involves an agreement of the parties. The Court reserves the right to enter and/or modify any such proposed order. Proposed orders will be filed and otherwise made available when they have been processed.

Through a proposed order, parties may also suggest a briefing schedule on a matter and/or ask the Court to decide a matter through filings. Similarly, the proposed orders must be signed by all parties (or their attorneys) in the case, or by an attorney with a representation that presentation of the proposed order involves an agreement of the parties. The Court reserves the right to enter and/or modify any such proposed order. Proposed orders will be filed and otherwise made available when they have been processed.

COURTESY COPIES

Under the Reconstitution Plan of the Circuit for the Pandemic of 2020, and notwithstanding local rules to the contrary, the Court is not receiving courtesy copies. Courtesy copies should not be mailed or otherwise delivered to the Court. Items to be considered by the Court must be e-filed, as suggested above. Other items may be mailed or delivered to the extent directed by the Court.

NEW PROBATE CASES INVOLVING AN ALLEGED DISABLED ADULT

Historically, a case involving an alleged disabled adult would commence into action over the counter in the Clerk's office. With e-filing, commencement into action has become virtual. Upon the filing of a petition to commence a case involving an alleged disabled adult and/or estate, along with the other necessary items (i.e., an evaluation report), the attorney for the petitioner or self-represented litigant (party) must email a proposed order for the appointment of a guardian *ad litem* and the setting of a hearing on the petition, to the Court at proposedorders@22ndcircuit.illinoiscourts.gov. If a motion is filed for the waiver of a guardian *ad litem* in the case, the Court will consider the same in reviewing the proposed order. The Court reserves the right to modify any such proposed order in whole or in part. Of course, the Probate Act of 1975, 755 ILCS 5/1-1 *et seq.* (with special focus on the provisions of Article 11a) governs these proceedings, along with the applicable Rules of the Supreme Court of Illinois and local rules of this Circuit. Prompt attention is required, as a hearing on the petition should be held within thirty (30) days. *See* 755 ILCS 5/11a-10(a). And, the respondent – the alleged disabled person, must be served with a summons at least fourteen (14) days in advance of any hearing on the same. *See* 755 ILCS 5/11a-10(e).

At any hearing on a petition for guardianship, the petitioner should be prepared to prove up its petition through proper evidence (including, typically, testimony), including the need for the

guardianship (*see* 755 ILCS 5/11a-8 and 9), and the qualifications of the proposed guardian (*see* 755 ILCS 5/11a-5). To the extent the guardianship of an estate is requested, an *oath and bond* will be required. *See* 755 ILCS 5/12-2. Advance consideration should be given to the requirement for surety for the bond. *See* 755 ILCS 5/12-3 and 4.

NEW PROBATE CASES INVOLVING A MINOR

Upon the filing of a petition to commence a case involving a minor and/or minor's estate, along with any other necessary items, the attorney for the petitioner or self-represented litigant (party) should set the matter for initial presentation in open court through e-filing and the Clerk. The Court reserves the right to specially set any such matter at a later time and/or date. Of course, the Probate Act of 1975, 755 ILCS 5/1-1 *et seq.* (with special focus on the provisions of Article 11) governs these proceedings, along with the applicable Rules of the Supreme Court of Illinois and local rules of this Circuit.

At any hearing on a petition for guardianship, the petitioner should be prepared to prove up its petition through proper evidence (including, typically, testimony), including the need for the guardianship (*see* 755 ILCS 5/11-5), and the qualifications of the proposed guardian (*see* 755 ILCS 5/11-3). To the extent the guardianship of an estate is requested, an *oath and bond* will be required. *See* 755 ILCS 5/12-2. Advance consideration should be given to the requirement for surety for the bond. *See* 755 ILCS 5/12-3 and 4.

NEW PROBATE CASES INVOLVING A DECEDENT

Historically, a decedent's estates could be opened over the counter in the Clerk's office. With e-filing, such opening has become virtual. Upon the filing of a petition to open a decedent's estate, along with the other necessary items – typically, an affidavit of heirship, an attorney or self-represented litigant (party) may email appropriate proposed orders and the appropriate oath(s) and bond(s) to the Court at proposedorders@22ndcircuit.illinoiscourts.gov for consideration, along with a cover email which simply explains what filings have occurred (including the filing of any will and codicil, and the number assigned to any such filing) and what is being requested, to the extent the matter is not otherwise scheduled for presentation in open court. The Court reserves the right to enter (or not) and/or modify any such proposed order. Proposed orders will be filed and otherwise made available when they have been processed.

For parties who desire to represent themselves in opening an estate, please note current law in Illinois requires the involvement of an attorney under *In re Estate of Carol Mattson*, 2019 IL App (1st) 180805.

ALIAS SUMMONSES IN ARBITRATION CASES

Respecting the requirement of Rule 88 of the Supreme Court of Illinois for arbitration hearings to be held within a year of the filing of a complaint to commence an arbitration ("AR") case, and the need of the Arbitration Administrator to coordinate arbitrators approximately sixty days

before a hearing, the Court is not inclined to allow for alias summonses more than ten (10) months beyond said initial filing.

Further, please note upon payment of any required fee, the Clerk is able to issue an alias (new) summons without an Order of the Court. To the extent a new summons date is set through the issuance of an alias summons and extends beyond the previously set date, the Court will be inclined to simply strike the previously set date at least once in the case, to the extent the commencement (filing) of the case was less than ten (10) months ago.

DATES TO AVOID

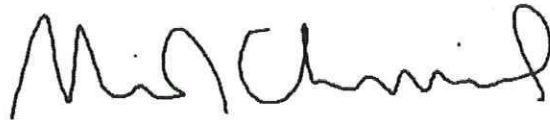
In addition to Saturdays, Sundays, and Court Holidays, a calendar of dates to avoid continues to be published and updated in Courtroom 202 and on the Court's website (currently under Judicial Assignments at www.mchenrycountyil.gov/county-government/courts/22nd-judicial-circuit/judiciary-judicial-assignments).

MISCELLANEOUS

This Standing Order pertains to cases assigned to Judge Chmiel and may be modified from time to time. The Court reserves the right to modify the provisions set forth in this Standing Order to the extent circumstances warrant, including when another Judge is temporarily assigned a case which is otherwise assigned to Judge Chmiel.

Specific questions on scheduling or submissions to the Court may be directed to the Court through the Senior Case Manager in the Office of the Trial Court Administrator by telephone at (815) 334-4385.

Dated: June 1, 2020



eSigned by MICHAEL J. CHMIEL 06/01/2020 00:24:30 Q9u39Oq6

Hon. Michael J. Chmiel
Circuit Judge